

Amy Alden

From: Amy Alden
Sent: Friday, June 24, 2016 12:06 PM
To: 'Steve Clark'
Subject: RE: Patterson v NBME

Steve...I sent you an email about it yesterday afternoon. See below at 3:14 p.m.

Amy L. Alden
Miller Dollarhide, P.C.
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aalden@millerdollarhide.com

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From: Steve Clark [<mailto:clark@ClarkMitchell.com>]
Sent: Friday, June 24, 2016 12:04 PM
To: Amy Alden <AAlden@millerdollarhide.com>
Subject: RE: Patterson v NBME

You never told me what your position was after talking with Jack in regard to OU docs

From: Amy Alden [<mailto:AAlden@millerdollarhide.com>]
Sent: Friday, June 24, 2016 10:33 AM
To: Steve Clark <clark@ClarkMitchell.com>
Cc: Jack Dawson <jdawson@millerdollarhide.com>
Subject: RE: Patterson v NBME

Steve:

My position on that issue has not changed since my email to you yesterday afternoon. I will advise the Court that you object to our motion.

Yours very truly,

Amy L. Alden
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From: Steve Clark [<mailto:clark@ClarkMitchell.com>]
Sent: Friday, June 24, 2016 10:29 AM
To: Amy Alden <AAlden@millerdollarhide.com>
Subject: RE: Patterson v NBME

I am not going to retain an expert. Whether I object to your motion depends on your position in regard to the OU docs.

From: Amy Alden [<mailto:AAlden@millerdollarhide.com>]
Sent: Friday, June 24, 2016 10:02 AM
To: Steve Clark <clark@ClarkMitchell.com>
Cc: Jack Dawson <jdawson@millerdollarhide.com>; Charise Hall-Siler <chall@millerdollarhide.com>
Subject: RE: Patterson v NBME

Steve:

I'd like to get an application of some sort filed with the Court today. Whether I file an application to extend the expert deadline for NBME or whether we file a joint application to extend deadlines depends upon you. I'd appreciate a head's up one way or the other.

Thanks,

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From: Amy Alden
Sent: Thursday, June 23, 2016 3:14 PM
To: 'clark@clarkmitchell.com' <clark@clarkmitchell.com>
Cc: Jack Dawson <jdawson@millerdollarhide.com>; Charise Hall-Siler <chall@millerdollarhide.com>
Subject: RE: Patterson v NBME

Steve:

Jack and I have visited about the line between expert and fact witness opinion testimony in this case. Not knowing what opinions these docs are going to give, we just can't agree in advance that we won't object on the basis that a particular doctor's opinion constitutes undisclosed expert testimony. My view is that any opinion that Patterson would have matched, should have matched or was expected to match, but for (fill in the blank), would be based upon specialized knowledge. I don't think a lay witness could give such an opinion, and so I think it not Rule 701 testimony.

Having said that, we appreciate -- from our own experience -- that it has been difficult trying to talk to these docs. If you want more time to identify an expert or experts and to have them prepare their reports or provide disclosures, we will not object to it. I think if that happens, however, we are going to need to extend more than just the expert witness deadline. We are going to want to depose any witness who is going to give an expert opinion. Between attorney schedules, doctor schedules and the fact that some of these docs may be taking summer vacations, I don't see how we could conclude discovery by August 1.

I guess I'm also still unsure about where you stand on our request for an additional week. I thought I understood you to say in our phone call that you wouldn't object since we had actually agreed to your requested extension, but I want to be certain.

Finally, I'm not sure what we need to do about the upcoming mediation deadline. I welcome your thoughts.

Yours very truly,

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From: Amy Alden
Sent: Thursday, June 23, 2016 1:36 PM
To: 'clark@clarkmitchell.com' <clark@clarkmitchell.com>
Cc: Jack Dawson <jdawson@millerdollarhide.com>
Subject: FW: Patterson v NBME

Steve:

If you would, please, take note of Jack's response to your request at 10:24 a.m. on June 15, 2016. You requested an additional week to identify an expert at 10:23 a.m.. Jack's response one minute later was "certainly." I'd ask you to reconsider your objection in view of the fact we did respond affirmatively to your request.

Out of professional courtesy, we would have agreed to your requested extension, regardless of whether it contained an offer to extend the same courtesy to us. However, we relied upon your offer to grant us an additional week. Having heard nothing further from you, we believed we had an agreement when Jack sent his response.

Again, please let me know whether you will reconsider your objection. Of course, we are willing to visit with you about the line between expert and fact witness testimony at your convenience.

Yours very truly,

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From: Steve Clark [<mailto:clark@ClarkMitchell.com>]
Sent: Thursday, June 23, 2016 1:28 PM
To: Amy Alden <AAlden@millerdollarhide.com>
Cc: Katie Templeton <katie@clarkmitchell.com>
Subject: RE: Patterson v NBME

I never got a reply from my request to get a week delay to my request. So I assumed you had refused. Therefore I must refuse you. if you want to talk about it I will be here. Also we need to talk about what the line is between "expert" and fact.

From: Amy Alden [<mailto:AAlden@millerdollarhide.com>]
Sent: Thursday, June 23, 2016 1:24 PM
To: Steve Clark <clark@ClarkMitchell.com>
Cc: Charise Hall-Siler <chall@millerdollarhide.com>
Subject: FW: Patterson v NBME

Steve:

I wanted to confirm, based upon your email below, that you have elected not to name an expert witness. Also, I assume from the same email you will not object to an application to the Court to extend our expert report deadline by one week, but I did not want to make that representation to the Court without confirming it with you.

Yours very truly,

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From: Jack Dawson
Sent: Wednesday, June 15, 2016 10:24 AM
To: Amy Alden <AAlden@millerdollarhide.com>
Subject: FW: Patterson v NBME

fyi

Jack S. Dawson
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From: Jack Dawson
Sent: Wednesday, June 15, 2016 10:24 AM
To: 'Steve Clark'
Subject: RE: Patterson v NBME

Certainly.

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From: Steve Clark [<mailto:clark@ClarkMitchell.com>]
Sent: Wednesday, June 15, 2016 10:23 AM
To: Jack Dawson
Subject: RE: Patterson v NBME

Jack

I know you too have been having a hard time arranging discussions with some of the faculty at OU. I need a week before naming an expert-if I do. of course will be happy to extend same to you.

Steve

From: Jack Dawson [<mailto:jdawson@millerdollarhide.com>]
Sent: Tuesday, June 14, 2016 2:38 PM
To: Steve Clark <clark@ClarkMitchell.com>
Subject: RE: Patterson v NBME

Good! I will set it up.

Jack S. Dawson
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From: Steve Clark [<mailto:clark@ClarkMitchell.com>]
Sent: Tuesday, June 14, 2016 2:32 PM
To: Jack Dawson
Subject: RE: Patterson v NBME

How about a.m. 7-15? Give you a weekend in Philly

From: Jack Dawson [mailto:jdawson@millerdollarhide.com]
Sent: Tuesday, June 14, 2016 12:21 PM
To: Steve Clark <clark@ClarkMitchell.com>
Subject: RE: Patterson v NBME

The witness is going on vacation the last part of June. So I meant July 27. I will find a date that works for you and just notice the plaintiff.

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From: Steve Clark [mailto:clark@ClarkMitchell.com]
Sent: Tuesday, June 14, 2016 11:25 AM
To: Jack Dawson
Subject: RE: Patterson v NBME

Did you mean July 15 or June 27? As for his depo lets just set it and ill tell him he has to be there.

From: Jack Dawson [mailto:jdawson@millerdollarhide.com]
Sent: Tuesday, June 14, 2016 9:36 AM
To: Steve Clark <clark@ClarkMitchell.com>
Cc: Amy Alden <AAlden@millerdollarhide.com>
Subject: Patterson v NBME

Steve:

Restricting the NBME depositions to either Wednesday afternoons or Friday mornings severely limits the times available. We have to consider not only the witness's schedule, but mine as well. If your client insists on being at the depo, then these are the only days in July when we can make that work:

Friday the 15th and Wednesday the 27th beginning at 3:00 PM.

Just let me know what you want to do.

I need to take the plaintiff's deposition and it will take more than a morning or an afternoon. Can you get some times from him that work for all of us?

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